

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 266 and 271

[FRL-4792-7]

Burning of Hazardous Waste in Boilers and Industrial Furnaces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

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**SUMMARY:** On February 21, 1991, EPA promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) that would expand controls on hazardous waste combustion to regulate the burning of hazardous waste in boilers and industrial furnaces (BIFs). Among other things, the regulations provide two tests for determining whether residues derived from Bevill devices (e.g., cement kilns, light-weight aggregate kilns, primary smelters, coal-fired boilers) co-processing hazardous waste and raw materials are exempt from hazardous waste control: if levels of the toxic constituents in the waste-derived residue are not significantly higher than in normal residue; or if levels of the toxic constituents in the waste-derived residue do not exceed specified health-based levels. EPA is today announcing an interim final rule on the health-based limits for nonmetals that are used to determine whether Bevill residues are exempt from the definition of hazardous waste under test number 2, provided that other limits are met on an interim basis (in order to prevent a situation where nonmetal constituents in these residues go unmonitored). The effect of this rule is to replace the current limits needed to qualify for the Bevill exemption (under test number 2) with the land disposal restriction limits for underlying constituents in nonwastewaters pending further administrative action to establish health-based levels.

**EFFECTIVE DATE:** October 15, 1993.

**ADDRESSES:** The official record for this document is identified as Docket Number F-93-BBAS-FFFFF, and is located in the RCRA Information Center located at: EPA/RCRA Information Center, room M2616, 401 M Street SW., Washington, DC 20460.

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FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at: (800) 424-9346 (toll free) or (703) 920-9810.

For technical information concerning this notice, contact Shiva Garg, Office of Solid Waste (OS-322W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308-8459.

>>>> Preamble has not been included in this file. <<<<

PART 266-STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, and 3014 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6934).

2. Section 266.112 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 266.112 Regulation of residues.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) Nonmetal constituents. The concentration of each nonmetal toxic constituent of concern (specified in paragraph (b)(1) of this section) in the waste-derived residue must not exceed the health-based level specified in appendix VII of this part, or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher. If a health-based limit for a constituent of concern is not listed in appendix VII of this part, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher, shall be used. The levels specified in appendix VII of this part (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of appendix VII of this chapter) are administratively stayed under the condition, for those constituents specified in paragraph (b)(1) of this section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in § 268.43 of this chapter for F039 nonwastewaters. In complying with

those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable Agency guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by § 268.43 for F039 nonwastewaters. The stay will remain in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations; and

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3. Appendix VII of part 266 is amended by designating the existing note at the end of the appendix as note 1 and adding a note 2 to read as follows:

#### Appendix VII [Amended]

\* \* \* \* \*

Note 2: The levels specified in this appendix and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of this appendix are administratively stayed under the condition, for those constituents specified in § 266.112(b)(1), that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in § 268.43 of this chapter for F039 nonwastewaters. See § 266.112(b)(2)(i).

>>>> Part 271 has not been included because it is not required as part of a State's Hazardous Waste Program. <<<<

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